

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BARBARA STUART ROBINSON,

Plaintiff,

v.

QUANAJE HAMPTON d/b/a QH
GROUP, LLC, et al.,

Defendants.

CASE NO. C10-5189BHS

ORDER GRANTING
DEFENDANTS' MOTIONS
TO DISMISS AND DENYING
DEFENDANT'S MOTION
FOR SANCTIONS

This matter comes before the Court on Defendant Quanaje Hampton d/b/a QH Group, LLC's ("QH Group") Motion for Judgment on the Pleadings/Motion for Dismissal (Dkt. 9) and Defendant We the People, P.S.'s ("We the People") Motion for Judgment on the Pleadings/Motion for Dismissal (Dkt. 19). The Court has considered the pleadings filed in support of and in opposition to the motions and the remainder of the file and hereby grants the motions for the reasons stated herein.

I. FACTUAL AND PROCEDURAL BACKGROUND

On March 22, 2010, Plaintiff Barbara Stuart Robinson ("Robinson") filed her original complaint naming QH Group as a defendant. Dkt. 3. On April 26, 2010, Robinson filed an amended complaint to add We the People as a defendant in the action. Dkt. 13. Robinson's amended complaint is otherwise identical to her original complaint. *See* Dkts. 3 and 13. On April 20, 2010 QH Group filed its motion to dismiss (Dkt. 9) and on May 6, 2010 Robinson filed a response (Dkt. 16). Also on April 20, 2010, QH Group

1 filed a motion for sanctions against Robinson. Dkt. 10. On May 13, 2010 We the People
2 filed its motion to dismiss (Dkt. 19) and on May 21, 2010, Robinson responded (Dkt. 22).

3 II. DISCUSSION

4 A. Motions to Dismiss

5 Rule 12(b)(1) of the Federal Rules of Civil Procedure allows for a motion to
6 dismiss based on lack of subject matter jurisdiction. Federal courts are courts of limited
7 jurisdiction. *Vacek v. U.S. Postal Serv.*, 447 F.3d 124, 1250 (9th Cir. 2006). “A federal
8 court is presumed to lack jurisdiction in a particular case unless the contrary affirmatively
9 appears.” *A-Z Int’l v. Phillips*, 323 F.3d 1141, 1145 (9th Cir. 2003). The burden falls on
10 the plaintiff to establish that subject matter jurisdiction is proper. *Kokkonen v. Guardian*
11 *Life Ins. Co.*, 511 U.S. 375, 377 (1994); *Vacek*, 447 F.3d at 1250. A motion brought
12 under Rule 12(b)(1) may be either facial, where the inquiry is limited to the allegations in
13 the complaint, or factual, where the court may look beyond the complaint to consider
14 extrinsic evidence. *Wolfe v. Strankman*, 392 F.3d 358, 362 (9th Cir. 2004); *Savage v.*
15 *Glendale Union High School Dist. No. 205*, 343 F.3d 1036, 1039 n.2 (9th Cir. 2003).
16 When a defendant makes a facial challenge to jurisdiction, all material allegations in the
17 complaint are taken as true, and the question for the court is whether the lack of
18 jurisdiction appears from the face of the pleading itself. *See Wolfe*, 392 F.3d at 362;
19 *Miranda v. Reno*, 238 F.3d 1156, 1157 n.1 (9th Cir. 2000). “If the moving party converts
20 the motion to dismiss into a factual motion by presenting affidavits or other evidence
21 properly brought before the court, the party opposing the motion must furnish affidavits
22 or other evidence necessary to satisfy its burden of establishing subject matter
23 jurisdiction.” *Wolfe*, 392 F.3d at 362 (internal quotation marks omitted). For purposes of
24 considering a motion to dismiss on the grounds of subject matter jurisdiction, a court may
25 consider matters outside of the pleadings. *Association of American Medical Colleges v.*
26 *U.S.*, 217 F.3d 770, 778 (9th Cir. 2000).

1 QH Group and We the People filed motions to dismiss alleging that Robinson's
2 complaint should be dismissed for lack of standing, improper service, and lack of
3 jurisdiction. Dkts. 9 and 19. In addition, We the People's motion to dismiss alleged that
4 Robinson's complaint should be dismissed for improper venue, failure to state a claim
5 upon which relief could be granted, improper party plaintiff, and failure to join necessary
6 parties. Dkt. 19. Because the Court concludes that it does not have proper subject matter
7 jurisdiction in the case, as discussed below, it does not consider the merits of the motions
8 to dismiss on other grounds.

9 The Court considers QH Group and We the People's motions to include factual
10 challenges to the Court's jurisdiction, rather than facial challenges, because QH Group
11 attached documents outside the pleadings to its motion (Dkt. 9, Exhs. 1-8) and We the
12 People incorporated those documents in its own motion to dismiss (Dkt. 19 at 1), as well
13 as attached its own exhibits (Dkt. 19, Exhs. 1-3). *See Wolf*, 392 F.3d at 362.
14 Accordingly, in order to defeat the motion to dismiss for lack of jurisdiction, Robinson is
15 required to submit evidence to satisfy her burden of establishing subject matter
16 jurisdiction. *Id.*

17 A federal district court has subject matter jurisdiction over civil actions arising
18 under the Constitution, laws or treaties of the United States. *See* 28 U.S.C. § 1331.
19 Complete diversity of the parties establishes an alternative basis for subject matter
20 jurisdiction. *See* 28 U.S.C. § 1332. Here, the parties are all residents of the State of
21 Washington for purposes of jurisdiction, thus no diversity jurisdiction exists. *See* Dkt. 13
22 at 4; Dkt. 9, Exh. 7. Dkt. 19, Exh. 1. Further, although Robinson lists the following
23 federal statutes in her complaint, "18 USCA 1341, 1342; IRC 7201; 8 UDCA 1306; 18
24 USCA 3555; Securities Exchange Act of 1934 15 USC 78a et eg" (Dkt. 13 at 3), none of
25 the factual allegations contained in her complaint allege that QH Group or We the People
26 violated these laws. *See* Dkt. 13. Moreover, in her responses to QH Group and We the
27 People's motions to dismiss, Robinson failed to submit any evidence that her claims do in
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1 fact arise under these federal statutes, or other federal law, to show that the Court has
2 subject matter jurisdiction over the case. *See Wolf*, 392 F.3d at 362 (requiring plaintiffs,
3 in opposing a motion to dismiss, to submit evidence to satisfy their burden of establishing
4 that subject matter jurisdiction exists). Accordingly, Robinson's complaint is dismissed
5 for lack of subject matter jurisdiction.


6 **B. Motion for sanctions**

7 QH Group's motion for sanctions seeks relief under Rule 11(B)(1),(2), and (3) of
8 the Federal Rules of Civil Procedure, based primarily on Robinson's failure to conduct a
9 reasonable inquiry of relevant public documents before bringing the suit and failure to
10 plead any facts in support of her having standing to bring the claims she alleges. Dkt. 10
11 at 1-2. The Court is dismissing Robinson's complaint for lack of subject matter
12 jurisdiction and does not reach the merits in this case. *See Bender v. Williamsport*, 475
13 U.S. 534, 541 (1986). The Court does not regard sanctions as warranted and therefore
14 denies QH Group's request for them.

15 **III. ORDER**

16 Therefore, it is hereby **ORDERED** that QH Group and We the People's motions
17 to dismiss (Dkts. 9 and 19) are **GRANTED**, and Robinson's claims against QH Group
18 and We the People are **DISMISSED without prejudice**.

19 DATED this 21st day of June, 2010.

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22 BENJAMIN H. SETTLE
23 United States District Judge
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